

1 Honorable John C. Coughenour
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MARK A. MISIAK,

11 Petitioner,

12 v.

13 RON VAN BOENING,

14 Respondent.

C09-0716-JCC

ORDER

16 This matter comes before the Court on the report and recommendation of Magistrate Judge
17 James P. Donohue. (Dkt. No. 26). The Court has also reviewed Petitioner's objections to the report and
18 recommendation. (Dkt. No. 28). The Court hereby ADOPTS the report and recommendation, and
19 ORDERS as follows:

- 20 1. The Court DISMISSES Petitioner's petition for writ of habeas corpus with prejudice. This
21 dismissal counts as a strike for the purposes of 28 U.S.C. § 1915(g).
- 22 2. The Court STRIKES Petitioner's pending motion for an evidentiary hearing (Dkt. No. 27) as
23 moot.

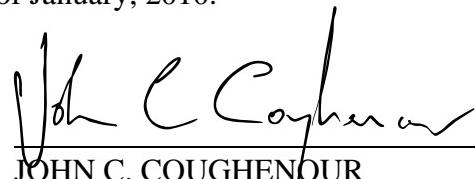
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4 SO ORDERED this 5th day of January, 2010.

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6 JOHN C. COUGHENOUR
7 United States District Judge

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